

# **HOUSE . . . . . No. 3961**

---

By Mr. Smola of Palmer, petition of Todd M. Smola relative to consumer reporting agencies. Consumer Protection and Professional Licensure.

---

## **The Commonwealth of Massachusetts**

---

In the Year Two Thousand and Five.

---

### **AN ACT RELATIVE TO CONSUMER REPORTING AGENCIES.**

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

1     Chapter 93 of General Laws is hereby amended by inserting  
2 after section 51 the following section:—

3     Section 51A. For the purposes of this section the following  
4 words shall have the following meanings:—

5     “Clear and proper identification,” information generally  
6 deemed sufficient to identify a person.

7     “Security alert,” a notice placed on a consumer file, at the  
8 request of the consumer that is sent to a recipient of a consumer  
9 report involving that consumer file, signifying the fact that the  
10 consumer’s identity may have been used without the consumer’s  
11 consent to fraudulently obtain goods or services in the consumer’s  
12 name.

13     “Security Freeze,” a notice placed on consumer file, at the  
14 request of the consumer and subject to certain exceptions, that  
15 prohibits a consumer reporting agency from releasing the con-  
16 sumer report or credit score without the express authorization of  
17 the consumer.

18     L. The following persons are not required to place a security  
19 alert or a security freeze on a consumer report in accordance with  
20 this section.

21     M. (1) A consumer may elect to place a security freeze on his  
22 credit report by written request, sent by certified mail, that  
23 includes clear and proper identification, to a credit reporting  
24 agency. A consumer reporting agency shall place a security

25 freeze on a consumer's credit report no later than 10 business days  
26 after receiving a written request for the security freeze from the  
27 consumer.

28 (2) When a security freeze is in place, information from a con-  
29 sumer's report shall not be released to a third party without prior  
30 express authorization from the consumer. This subsection does  
31 not prevent consumer reporting agency from advising a third party  
32 that a security freeze is in effect with respect to the consumer's  
33 report.

34 N. The consumer reporting agency shall, no later than 10 busi-  
35 ness days after the date the agency receives the request for a secu-  
36 rity freeze, provide the consumer with a unique personal  
37 identification number or password to be used by the consumer  
38 when providing authorization for the access to his credit file for a  
39 specific period of time. In addition, the consumer reporting  
40 agency shall simultaneously provide to the consumer in writing  
41 the process of placing, removing, and temporarily lifting a secu-  
42 rity freeze and the process for allowing access to information from  
43 the consumer's credit file for a specific period while the security  
44 freeze is in effect.

45 O. A consumer may request in writing a replacement personal  
46 identification number or password. The request must comply with  
47 the requirements for requesting a security freeze under Subsection  
48 M. The consumer reporting agency shall, not later than the 7th  
49 business day after the date the agency receives the request for a  
50 replacement personal identification number or password, provide  
51 the consumer with a new, unique personal identification number  
52 or password to be used by the consumer instead of the number or  
53 password that provided under Subsection N.

54 P. A consumer reporting agency shall notify a person who  
55 requests a consumer report or score if a security freeze is in effect  
56 for the consumer file involved in that report or score.

57 Q. If a third party requests access to a consumer report on  
58 which a security freeze is in effect, and this request is in connec-  
59 tion with an application for credit or any other use, and the con-  
60 sumer does not allow his credit report to be accessed for that  
61 specific period of time, the third party must treat the application  
62 as incomplete.

63 R. If the consumer wishes to allow his credit report or score to  
64 be accessed for a specific period of time while a freeze is in place,

65 he shall contact the credit reporting agency and request that the  
66 freeze be temporarily lifted, and provide the following:

67     1. Clear and proper identification.

68     2. The unique personal identification number or password pro-  
69 vided by the credit reporting agency pursuant to Subsection N or  
70 O.

71     3. The proper information regarding the time period for which  
72 the report shall be available to users of the consumer report.

73     S. A consumer reporting agency that receives a request from a  
74 consumer to temporarily lift a freeze on a consumer report pur-  
75 suant to Subsection R shall comply with the request no later than  
76 3 business days after receiving the request. A consumer reporting  
77 agency may develop procedures involving the use of telephone,  
78 fax, the internet, or other electronic media to receive and process a  
79 request from a consumer to temporarily lift a freeze on a con-  
80 sumer report or score pursuant to Subsection R in an expedited  
81 manner.

82     T. A consumer reporting agency shall remove or temporarily  
83 lift a freeze placed on a consumer's credit report only in the  
84 following cases:

85     1. Upon consumer request as provided in this Section.

86     2. If the consumer's report was frozen due to a material misrep-  
87 resentation of fact by the consumer. If a consumer reporting  
88 agency intends to remove a freeze upon a consumer report pur-  
89 suant to this paragraph, the credit reporting agency shall notify the  
90 consumer in writing prior to removing the freeze on the con-  
91 sumer's credit report.

92     U. A security freeze shall remain in place until the consumer  
93 requests that the security freeze be removed. A consumer  
94 reporting agency shall remove a security freeze within 3 business  
95 days of receiving a request for removal from the consumer, who  
96 provides both of the following:

97     1. Clear and proper identification.

98     2. The unique personal identification number or password pro-  
99 vided by the credit reporting agency.

100     V. A security freeze does not apply to a consumer report pro-  
101 vided to:

102     1. A federal, state, or local governmental entity, including a law  
103 enforcement agency, or court, or their agents or assigns.

104     2. A private collection agency for the sole purpose of assisting  
105    in the collection of an existing debt of the consumer who is the  
106    subject of the consumer report request.

107     3. A person or entity, or subsidiary, affiliate, or agent of that  
108    person or entity, or a prospective assignee of a financial obliga-  
109    tion owing by the consumer to that person or entity, or a prospec-  
110    tive assignee of a financial obligation owing by the consumer to  
111    that person or entity in conjunction with the proposed purchase of  
112    the financial obligation with which the consumer has had prior to  
113    assignment of an account or contract, including a demand deposit  
114    account, or to whom the consumer issued a negotiable instrument,  
115    for the purpose of reviewing the account or collecting the finan-  
116    cial obligation owing for the account, contract, or negotiable  
117    instrument. For purposes of this paragraph, “reviewing the  
118    account” includes activities related to account maintenance, moni-  
119    toring, credit lines increases, and account upgrades and enhance-  
120    ments.

121     4. A subsidiary, affiliate, agent, assignee, or prospective  
122    assignee of a person to whom access has been granted under Sub-  
123    section R for the purpose of facilitating the extension of credit.

124     5. A person, for the purposes of prescreening as provided by  
125    the federal Fair Credit Reporting Act.

126     6. A credit reporting agency for the purposes of providing a  
127    consumer with a copy of his own report on his request.

128     7. A child support enforcement agency.

129     8. A consumer reporting agency that acts only as a reseller of  
130    credit information by assembling and merging information con-  
131    tained in the database of another credit reporting agency or mul-  
132    tiple consumer reporting agencies and does not maintain a  
133    permanent database of credit information from which new con-  
134    sumer reports are produced. However, a consumer reporting  
135    agency acting as a reseller shall honor any security freeze placed  
136    on a credit report by another consumer reporting agency.

137     9. A check services or fraud prevention services company,  
138    which issues reports on incidents of fraud or authorizations for the  
139    purpose of approving or processing negotiable instruments, elec-  
140    tronic funds transfers, or similar methods of payments.

141     10. A deposit account information service company, which  
142    issues reports regarding account closures due to fraud, substantial

143 overdrafts, ATM abuse, or similar negative information regarding  
144 a consumer, to inquiring banks or other financial institutions for  
145 use only in reviewing a consumer request for a deposit account at  
146 the inquiring bank or financial institution.

147 W. A consumer agency may impose a reasonable charge on a  
148 consumer for initially placing a security freeze on a consumer file.  
149 The amount of the charge may not exceed \$10. The charge to  
150 temporarily lift the security freeze may not exceed \$8 per request.  
151 At no time shall the consumer be charged for revoking the freeze.  
152 On January first of each year, a credit reporting agency may  
153 increase the charge for placing a security alert based proportion-  
154 ally on changes to the Consumer Price Index of All Urban Con-  
155 sumers as determined by the United States Department of Labor  
156 with fractional changes rounded to the nearest twenty-five cents.  
157 An exception shall be allowed whereby the consumer will be  
158 charged 0 dollars by the consumer reporting agency to place the  
159 security freeze if any of the following applies:

160 1. If the consumer is a victim of identity theft and, upon the  
161 request of the consumer reporting agency, provides the credit  
162 reporting agency with a police report.

163 2. If the consumer is 62 years of age or older.

164 X. If a security freeze is in place, a consumer reporting agency  
165 shall not change any of the following official information in a  
166 consumer report without sending a written confirmation of the  
167 change to the consumer within 30 days of the change being posted  
168 to consumer's file: name, date of birth, social security number,  
169 and address. Written confirmation is not required for technical  
170 modifications of a consumer's official information, including  
171 name and street abbreviations, complete spellings, or transposition  
172 of numbers or letters. In the case of an address change, the  
173 written confirmation shall be sent to both the new address and to  
174 the former address.

175 Y. Any consumer damaged by an intentional or negligent viola-  
176 tion of Subsection M through U may bring an action for and shall  
177 be entitled to recovery of actual damages, plus reasonable attorney  
178 fees, court costs and other reasonable costs of prosecution of the  
179 suit.